



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

PAIN & LASER CENTER PA  
3312 NORTH UNIVERSITY DRIVE SUITE L  
NACOGDOCHES TEXAS 75963

DWC Claim #:  
Injured Employee:  
Date of Injury:  
Employer Name:  
Insurance Carrier #:

#### **Respondent Name**

LIBERTY MUTUAL FIRE INSURANCE

#### **Carrier's Austin Representative Box**

Box Number 01

#### **MFDR Tracking Number**

M4-04-9012-01

#### **MFDR Date Received**

May 3, 2004

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary taken from the table of disputed services:** "Service was denied. Does not fall within the scope of the providers practice. Insurance carrier's position remains the same. We are disputing this decision."

**Amount in Dispute:** \$6,256.55

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The entire bill was denied as out of the scope of the providers [sic] practice - TWCC mapping letter K. Liberty Mutual does not believe that this facility meets the requirements to be reimbursed as a licensed Ambulatory Surgery Center. The provider is billing as a licensed Ambulatory Surgery Center on a UB92. A letter written by Dr. Daniel Theesfeld, MD and date March 15, 2004 identifies 'The Pain and Laser Center' as a freestanding Ambulatory Surgical Center to be licensed by the Texas State Law. Texas Health and Safety Code, Chapter 243, requires Ambulatory Surgical Centers to be licensed by the Texas Department of Health. We have no record of this facility, Pain and Laser Center, as being Licensed [sic] by the Texas Department of Health, Health Facility Licensing Division. It does not appear on the Texas Department of Health, ASC Directory Report as being licensed... Liberty Mutual does not believe that The Pain and Laser Center is due any further reimbursement for services rendered to Mr. [injured employee] on date of service 1/19/04."

**Response Submitted by:** Liberty Mutual Insurance Group

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 19, 2004	Revenue Codes: 250, 360, 710, 370, 320,	\$6,256.55	\$0.00

## ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.1 sets forth general provisions related to use of the fee guidelines.
3. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
4. This request for medical fee dispute resolution was received by the Division on May 3, 2004. Pursuant to 28 Texas Administrative Code §133.307(g)(3), effective January 1, 2003, 27 *Texas Register* 12282, applicable to disputes filed on or after January 1, 2003, the Division notified the requestor on May 6, 2004 to send additional documentation relevant to the fee dispute as set forth in the rule.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated April 22, 2004

- B417 – Service is denied. It does not fall within the scope of the providers practice.
- X394 – Our position remains the same; if you disagree with our decision please contact the TWCC Medical Dispute Resolution
- Z140 – Insurance carrier payment to the health care provider shall be according to commission medical policies and fee guidelines in effect on the date(s) of service(s).

### **Findings**

1. This dispute relates to services provided in an Ambulatory Surgical Center that are not covered under a fee guideline for this date of service. Accordingly, reimbursement is subject to the provisions of former 28 Texas Administrative Code §134.1(c), effective May 16, 2002, 27 *Texas Register* 4047, which requires that "Reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas Workers' Compensation Act, §413.011 until such period that specific fee guidelines are established by the commission."
2. Former 28 Texas Administrative Code §133.307(g)(3)(B), effective January 1, 2003, 27 *Texas Register* 12282, applicable to disputes filed on or after January 1, 2003, requires the requestor to send "a copy of any pertinent medical records." Review of the submitted documentation finds that the requestor has not provided copies of sufficient medical records to support the services in dispute. Although the requestor did submit a copy of the operative report, anesthesia report and an itemized statement, the requestor did not submit a copy of the post-operative care record, or other pertinent medical records sufficient to support the services in dispute. The Division concludes that the requestor has not met the requirements of §133.307(g) (3) (B).
3. Former 28 Texas Administrative Code §133.307(g)(3)(D), effective January 1, 2003, 27 *Texas Register* 12282, applicable to disputes filed on or after January 1, 2003, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement." Review of the submitted documentation finds that:
  - The requestor has not articulated a methodology under which fair and reasonable reimbursement should be calculated.
  - The requestor's position statement / rationale for increased reimbursement from the *Table of Disputed Services* assert that "Service was denied. Does not fall within the scope of the providers practice. Insurance carrier's position remains the same. We are disputing this decision."
  - Documentation of the amount of reimbursement received for these same or similar services was not presented for review.
  - The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for the services in this dispute.
  - The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for additional reimbursement is not supported. Thorough review of the submitted documentation finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

### **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307. The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

_____	_____	_____
Signature	Medical Fee Dispute Resolution Officer	Date

May 14, 2013

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**